

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

SHUNNA WILLIAMS,)	
)	
Plaintiff,)	
)	08CV753
vs.)	JUDGE CASTILLO
)	MAGISTRATE JUDGE COLE
DEPUTY DAVID LAWSON, DEPUTY K.)	
HANKS, SHERIFF RICHARD A. RANDALL,)	
and COUNTY OF KENDALL, ILLINOIS,)	
)	
Defendants.)	

DEFENDANTS' MOTION TO STAY

Defendants, Deputy David Lawson, Deputy K. Hanks, Sheriff Richard A. Randall and County of Kendall, Illinois, by their attorneys, Julie A. Bruch, Saira J. Alikhan, and O'Halloran Kosoff Geitner & Cook, LLC, for their Motion to Stay, state as follows:

1. Plaintiff Shunna Williams has filed suit against defendants alleging, among other things, a violation of her civil rights by defendants in connection with her February 4, 2007 arrest. (Doc. 1). Specifically, plaintiff alleges that her arrest was without probable cause and defendants' used excessive force to take her into custody.
2. In connection with plaintiff's arrest, defendants charged plaintiff with speeding, failure to display driver's license upon demand, obstruction of a peace officer, and resisting a peace officer. Plaintiff's criminal charges are currently pending in the Sixteenth Judicial Circuit, Kendall County, Illinois in the matter of *People of the State of Illinois v. Williams*, Case Nos. 07 CM 139, 07 TR 2039; and 07 TR 2040. Defendants'

counsel has contacted the Clerk's office and learned that the matter is set for a status on May 1, 2008.

3. The issue of plaintiff's criminal conduct is directly related to plaintiff's claims of excessive force, false arrest and conspiracy, and related in part to the other claims made in plaintiff's complaint because the same occurrence of February 4, 2007 forms the factual bases for both the plaintiff's criminal case and the plaintiff's claims in this case.

4. Under the federal abstention doctrine, when there is a pending state court criminal proceeding related to the same incident and the same parties, and the disposition of one action necessarily involves issues which are present in the other action, the federal court should abstain from further proceedings pending final judgment in the criminal case. *Younger v. Harris*, 401 U.S. 37, 91 S.Ct. 746 (1971); *Simpson v. Rowan*, 73 F.3d 134, 138 (7th Cir. 1995)(federal case involving Section 1983 claims of false arrest, improper search and conspiracy was stayed pending appeal of plaintiff's state conviction for felony murder).

5. Here, all of the relevant factors are present to warrant a stay of the case. Specifically, the state proceedings are judicial; the state proceedings implicate important state interests; there is an adequate opportunity in the state court proceeding to raise the constitutional challenge present in the federal claims; and there are no extraordinary circumstances that would render abstention inappropriate. *Green v. Benden*, 281 F.3d 661, 666 (7th Cir. 2002).

6. In Illinois, an accused may defeat a charge of resisting a peace officer where the accused invokes a right of self-defense and the evidence shows that the officer

used excessive force. *See People v. Williams*, 267 Ill.App.3d 82, 640 N.E.2d 981, 985 (2d Dist. 1994). Further, plaintiff's claim of malicious prosecution and allegations that defendants' lacked probable cause for her arrest are issues that will be addressed in her criminal court case. The lawfulness of plaintiff's arrest and/or plaintiff's response to the arrest is directly implicated in the state court criminal case.

7. While the *Younger* doctrine typically calls for dismissal of the federal action if the plaintiff in the federal case seeks to enjoin the state court action, a federal court will stay rather than dismiss the federal action case where the plaintiff in the civil case seeks damages which are not available in the pending state criminal proceeding. *Simpson v. Rowan*, 73 F.3d at 139.

WHEREFORE, Defendants Deputy David Lawson, Deputy K. Hanks, Sheriff Richard A. Randall and County of Kendall, Illinois, pray that the Court stay this matter until the completion of plaintiff's criminal proceedings for the reasons set forth herein.

Deputy David Lawson, Deputy K. Hanks,
Sheriff Richard A. Randall and County of
Kendall, Illinois

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SHUNNA WILLIAMS,)	
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Plaintiffs,)	
v.)	Case No.: 08 CV 753
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DEPUTY DAVID LAWSON, DEPUTY K.)	The Honorable Judge Castillo
HANKS, SHERIFF RICHARD A.)	
RANDALL, and COUNTY OF KENDALL,)	Magistrate Judge Cole
ILLINOIS,)	
Defendants.)	

CERTIFICATE OF SERVICE

I hereby certify that on April 28, 2008, I electronically filed Defendants' Motion to Stay with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

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